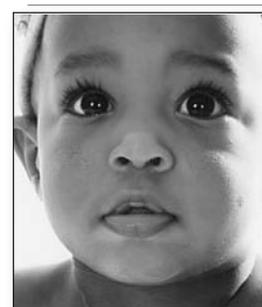


Nebraska Foster Care Review Board

2009 Annual Report Recommendations for the Legal System

“We in the judicial system, and in government more generally, strive to fulfill our responsibilities to the children of Nebraska by viewing our work ‘through the eyes of a child.’”

– Chief Justice Mike Heavican





**Carolyn K. Stitt,
Executive Director**

From the FCRB Executive Director ...

The Foster Care Review Board thanks the judges for their efforts to improve conditions for children in out-of-home care, and thanks Chief Justice Heavican for keeping children's issues at the forefront.

Utilizing the *Through the Eyes of the Child* Initiative, the legal system has continued its focus on improving outcomes for children in foster care.

We are seeing increased leadership and focus on child safety, placement, and timely permanency for children who are wards of the state. We would like to recognize the countless instances of collaboration, consultation, and conversation with various members of the legal system. We all have the goal of bettering the lives of children in out-of-home care.

The Foster Care Review Board has monitored child welfare reform since lead agencies became involved. The interjection of another layer of out-of-home care service providers requires increased attention to specificity or court orders and accountability. Members of the judiciary and legal system need to verify information from Lead Agencies and DHHS. With this additional layer it is important to have supporting documentation regarding services and placements.

To that end, *we offer the following key recommendations to continue improving the well-being of Nebraska children in out-of-home care:*

County attorneys:

- Make petitions as detailed as possible including issues in the home that led to removal so these can be addressed.
- File supplemental petitions as needed when new evidence becomes available so that those issues can be addressed.
- Identify aggravated circumstance for chronic or severe cases, including re-entry due to withholding of basic care.

Judges and courts:

- Assure timely adjudications so that parents start services to correct the issues causing children to

come into out-of-home care.

- Utilize authority under §43-285(1) to determine the care, placement, medical services, psychiatric services, etc.

“When the court awards a juvenile to the care of DHHS... the department shall have the authority, BY AND WITH THE ASSENT OF THE COURT, to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it.”

- Case plans include specific, detailed, and timely improvements that parents need to demonstrate to show that a return of the children to the parent's care could be safe and successful, including timeframes. Hold all the parties accountable to make sure the plan is followed.
- Specify in court orders the services that are to be provided and insist that services and treatments are continued through completion until successful and not ended prematurely.
- Spell out the appropriate parenting time to reinforce attachments between parent and child, and promote timely reunification by measuring parental willingness/ability to parent.
- Utilize 12-month hearings to effectively address permanency issues.
- Hold parents accountable, and act if and when parents make little or no effort to comply. If parents are unwilling or unable to parent their children, focus on alternate permanency.

Guardians ad litem:

- Visit children and youth in their placement as an important safeguard.
- Ensure services for children and families are being provided in a timely manner, consistent with the Supreme Court guidelines.

It is imperative that everyone works to keep children safe, to reduce the time that each child spends in out-of-home care, and to ensure that all children achieve permanency in a safe and positive environment.

The Foster Care Review Board suggests these steps that judges and members of the legal system can follow to improve case progression.



Through reviews, we have identified a number of steps that courts can, and have, made to reduce the length of time children spend in foster care. We acknowledge that the courts have made significant efforts in this area, particularly the use of pre-hearing conferences, focusing the parents on the activities needed, the timeframes for completion, and focusing on permanency at the 12-month hearings.

We have also identified missed opportunities for permanency. The following are some of the ways the judiciary, guardians ad litem, and/or county attorneys can better recognize and act on those opportunities.

Insist on appropriate case plans that detail specific and timely improvements that parents need to demonstrate to show that a return of the child(ren) to the parent's care could be safe and successful. ***38.2% of the children who entered care in 2009 had been removed at least once before.***

Hold DHHS and the Lead Agencies accountable to ensure that children receive needed treatments, services, and placements. As an example, for 1,040 (21.9%) of the 4,754 reviews conducted in 2009 there was no documentation about the placement's safety and appropriateness.

Order proper parenting time to reinforce the attachments between parent and child, and promote timely reunification by measuring willingness and ability to parent.

Verify through supporting evidence that the parents have been provided the services

and visitation opportunities ordered (by either DHHS or one of the private providers with which it contracts).

Assure that guardians ad litem are following the Supreme Court's guidelines by conducting independent investigations and rendering independent determinations as to the juvenile's best interests, and consulting with the juvenile at least once a year in the placement (an important safety provision).

Specify in court orders that services are to be successfully completed so that services and treatments are not ended prematurely.

Assure timely adjudications so that parents begin services to correct the reasons why children were placed into out-of-home care.

Utilize 12-month hearings to effectively address permanency objectives.

Continue to use FCRB recommendations and reports which identify the major issues in each case reviewed and offer recommendations alleviating those issues and other major barriers to permanency.

Continue to work with the Through the Eyes of the Child teams to increase understanding, knowledge, and collaboration among entities that comprise the child welfare system.

The Supreme Court Commission on Children in the Courts continues to seek responsiveness to the needs of children in foster care.

by Judge Douglas F. Johnson
of the Douglas County Separate Juvenile Court

The Supreme Court Commission on Children in the Courts, created in 2005, consists of judges, lawyers, representatives of the legislative and executive branches, and children's advocates. Its charge is to study and make recommendations regarding various aspects of the judicial system to ensure that the court system is as responsive as possible for children who interact with, or are directly affected by the courts. It is co-chaired by Judge Everett O. Inbody, Chief Judge of the Court of Appeals, and Douglas County Separate Juvenile Court Judge Douglas F. Johnson, who is also Immediate Past President of the National Council of Juvenile and Family Court Judges. The main work of the Commission is done in subcommittees.

Some of the accomplishments to date include:

- The Nebraska Supreme Court adopted mandatory training requirements for Guardians ad litem (effective January 1, 2008).



Judge
Douglas F. Johnson

- The Supreme Court adopted the Guidelines for Guardians Ad Litem (July 18, 2007).
 - The Court of Appeals has cut an average of three months for the appeal of abuse/neglect of termination of parental rights cases.
 - The statewide Children's Summit was held in September 2006.
 - The Supreme Court approved and made available the Caregiver Information Form for foster parent participation in hearings.
- Work is underway to:**
- Revise case progression standards.
 - Develop and implement guidelines for parenting time that reflect current science regarding child development and best interests of children.
 - Study immigration issues in juvenile court (training was provided in 2009).
 - Study the National Council of Juvenile and Family Court Judges recently developed guidelines for delinquency cases.

“Through the Eyes of the Child” continues its progress.

by Judge Lawrence Gendler
of Sarpy County
Separate Juvenile Court

The Through the Eyes of the Child Initiative is now entering its fifth year and local teams are working harder than ever in addressing their goals, which include the three priorities selected by attendees at the Children's Summit: reducing time to reunification, better responding to substance-abusing parents, and improving parenting time. While teams work on issues at the local level, the Initiative is also working on a statewide level with various partners on issues such as addressing the needs of young children, improving the timeliness of obtaining sub-



Judge
Lawrence Gendler

stance abuse treatment, improving legal representation, and expanding the use of facilitation. The Initiative also provides free trainings throughout the year on issues pertinent to the communities in which they're held.

During our most recent 2010 Regional Conference series, data reports were distributed to the teams and it was announced that the overall median time to case closure had decreased 22% between 2008 and 2009, from 23 months to 18 months. Although definite causation cannot be determined, we are encouraged by this decrease and confident that the collective

effort by the courts and teams are making a difference in the lives of our Nebraska children.

During court proceedings, the juvenile court must continually evaluate whether the system is making reasonable efforts.



**Judge
Robert Ide**

**by Judge Robert Ide
County Court Presiding
Judge of the
10th Judicial District**

**(Adams, Clay, Fillmore,
Franklin, Harlan,
Kearney, Nuckolls, Phelps,
and Webster Counties)**

**Judge Ide was Chair of the State
Foster Care Review Board and
currently serves as Chair of the
Nebraska County Judges
Association.**

During court proceedings, the juvenile court must continually evaluate whether the system is making reasonable efforts to correct and repair the conditions or causes which necessitated the juvenile's removal from his or her home.

Barring circumstances outlined in 43-283.01 (4), the courts must immediately evaluate whether "reasonable efforts" have been made to prevent removal of the child to begin with, adopt plans for the care of the child to restore the family, adopt plans with services and timeframes with the intent to restore the family, and continually monitor the progress until such time as the child can be returned home safely.

The Nebraska Juvenile code clearly prefers services in the child's home and family reunification (43-246 and 43-283.01 Neb Rev. Stat.), however, this notion must be subjected to the provision that the juvenile's health and safety are of paramount concern.

Like all court proceedings, the system is driven by "information" and any challenge to the actions of the court not based upon a lack of jurisdiction or application of law will rise or fall on the quality of the information in the court record.

Documentation is a critical part of the process especially when court considers whether this juvenile should be returned to the parent. This decision must cover:

- **Cause for removal**
- **Identification of solutions /services**
- **Reasonable provisions of these services**

Ongoing evaluation and services may identify further issues for this child and parent. Services provided may need to be modified. The system must be able to adjust to meet new "needs."

Barriers must be addressed, such as language, cultural, economic issues, social background, and geographic location.

Speed of service needs to be considered. Do estimates – take into consideration the barriers in the case. Some forms of treatment, i.e., chemical addiction requires extended services over months and sometimes years. The ability to have a timely resumption of parental function is hampered by treatment protocol unless certain levels of care are reasonably available in this community.

Economic issues are frequently compelling – limited income, limited education, affordability of services, timely, transportation, language, literacy. In those cases make sure the plan is communicated and received by the parents in a way they can understand.

Fairness to parent (due process) is critical, recognizing the importance of constitutionality protected relationships versus the child's best interests and safety. As the Supreme Court has ruled on numerous occasions, "A child should not be left suspended in foster care and should not be required to exist in a wholly inadequate home. Further, a child cannot be made to await uncertain parental maturity." From *In Re Interest of JS, SC, and LS*, 224 Neb 234 (1986).

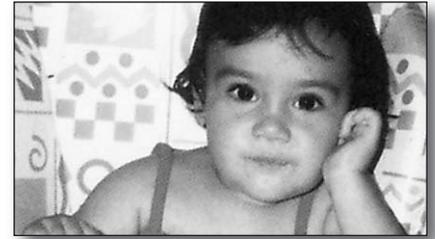
Length of time to adjudication

According to Neb. Rev. Stat. §43-278 the adjudication hearing is to occur within 90 days of the child's entering out-of-home care. As shown below, in practice the 90-day rule is not always followed.

Timely adjudication is important because it affects when some parents will begin services to correct the reasons why the child entered care.

Totals shown here are from a sample of unduplicated 1,915 children, state-wide, who were reviewed in 2009. The table below shows only those counties with five or

more children in the sample. Totals here will not equal the total number of children by county listed on pages 18 and 19, which show all the children in out-of-home care on December 31, 2009. Please note that some of the children entered care in 2009 and others entered care prior to that time.



COUNTY	TOTAL	Age 0 to 5				Age 6 to 12				Age 13 to 18			
		1-3 Mos.	4-6 Mos.	7+ Mos.	TOTAL	1-3 Mos.	4-6 Mos.	7+ Mos.	TOTAL	1-3 Mos.	4-6 Mos.	7+ Mos.	TOTAL
Adams	24	4	5		9	8	6		14			1	1
Buffalo	32	9	5		14	8	1		9	9			9
Butler	11	3			3	3	3		6	1	1		2
Cass	20	2			2	6	2		8	10			10
Chase	2				0	1			1	1			1
Colfax	8		3		3	2			2	3			3
Cuming	6	1			1	4			4	1			1
Custer	3	1			1				0	2			2
Dakota	10	1			1	8			8	1			1
Dawson	2	1			1				0	1			1
Dodge	43	8	8	2	18	5	1		6	18	1		19
Douglas	934	197	113	34		201	106	32		206	104	41	
Gage	23	3		1	4	3			3	13	3		16
Greeley	4				0	1			1	3			3
Hall	122	31	10	2	43	27	13	2	42	27	7	3	37
Harlan	4				0	1	2		3		1		1
Jefferson	5				0	1			1	3	1		4
Lancaster	417	127	25	3		97	40	7		86	24	8	
Lincoln	28	3	1		4	4	3		7	13	1	3	17
Madison	35	12	1		13	13			13	9			9
Merrick	0				0				0				0
Otoe	11	7			7	3			3	1			1
Platte	30	10			10	12			12	6	1	1	8
Saline	6	1	1		2				0	4			4
Sarpy	76	12	5	1	18	12	8	2	22	15	13	8	36
Scotts Bluff	44	14	2		16	5	5		10	11	7		18
Valley	3		1		1	1			1	1			1
York	12	5			5	4			4	3			3
TOTAL	1,915	452	180	43	176	430	190	43	180	448	164	65	208

Take steps to reduce the number of children re-entering out-of-home care.



The Foster Care Review Board highlights an alarming reality: Throughout a significant portion of the past twenty years, the percentage of children who re-enter out-of-home care has been disturbingly high.

Some progress had been recorded during recent years in reducing the percentage of children re-entering foster care. The rate of return is computed by taking the number of those children who had been removed from their home more than once as a percentage of the total children entering foster care.

Statistics indicated that 1,704 (38.3% of the children in care on December 31, 2009) had been previously removed from their home.

Effective planning and tighter scrutiny are needed to prevent children from being subjected to reabuse, resulting in future removals from the home. A number of reasons have been identified as to why children return to foster care, including:

- Reassignment of caseworkers and/or high case-loads tend to diminish the quality and frequency of documentation regarding parental compliance or non-compliance with court orders and plans of parental rehabilitation. This, in turn, impacts and limits the evidence available to the Court when assessing the propriety of reunification.

- Contracted visitation supervision has been problematic because visitation has not been appropriately documented.

- Some children have been returned home even though there were indications that parents could not or would not safely parent their children.

- Children too often have “cookie cutter” plans, rather than plans that are specific to the reasons that

children entered care (The federal CFSR review found this also).

- Children have assessments, but often do not get the treatment recommended or are not allowed to complete the treatment due to managed care funding issues and denials.

Lack of permanency is costly. In addition to the psychological costs to the children, there are costs associated with room and board, with court cases, with treatments and mental health care, with treating educational impairments, delinquent behaviors, and with re-abused children who have a high probability of becoming abusive parents themselves. Younger siblings born to parents who have not corrected the conditions that led to the older siblings removal are also placed at risk.

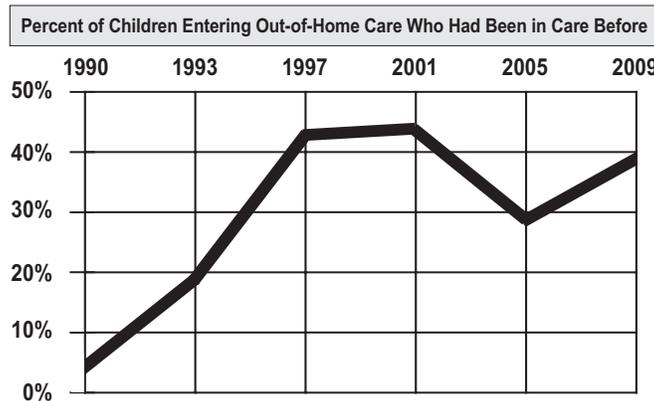
Clearly, participants in the child welfare system must increase focus on reunifying only when safe to do so. The legal system can assist with this goal in the following ways:

1. Judges can insist on timely, adequate and appropriate case plans that deal specifically with the reasons each particular child entered care. Reunification should not be allowed absent reasonable assurances of the child’s safety.

2. Guardians ad litem can more readily express objections to inappropriate plans of reunification.

3. County attorneys can file supplemental petitions if new information affecting health, safety, or well-being are disclosed.

The Board encourages everyone to help reduce the number of children returning to out-of-home care.



Calendar Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Entered Care During Year	3,361	3,464	3,824	3,516	4,111	4,563	5,490	5,844	5,985	4,884	5,281	5,232	5,321	4,773	4,839	4,714	4,768	4,437	4,057	4,448
Children with prior removals	153	287	532	695	1,143	1,702	2,308	2,451	2,364	2,022	2,405	2,238	2,211	1,875	1,631	1,386	1,877	1,701	1,664	1,704
Percent (%) Return to care	4.6	8.3	13.9	19.8	27.8	37.3	42.0	41.9	39.5	41.4	45.5	42.8	41.6	39.3	33.7	29.4	39.4	38.3	41.0	38.3

Judicial authority over case plans can lead to more specific expectations of services required and to higher accountability of service providers.



**Judge
Elizabeth G.
Crnkovich**

**by Judge Elizabeth G
Crnkovich,
Judge of the Separate
Juvenile Court,
Douglas County**

Since the establishment of juvenile courts in this country, juvenile judges have struggled with determining the exact nature of their role, both in delinquency cases and in child welfare cases. Is the juvenile court judge a “*parens patriae*”¹ figure or should they

emulate county and district court counterparts in being strictly impartial fact finders? While studies have identified an overwhelming majority of court involved individuals (judges, attorneys, case managers, etc) who believe that juvenile court judges should operate just like their adult court counterparts at the trial stage (i.e., like a neutral fact finder), equal numbers of individuals maintain that both the detention and disposition decisions call for very different considerations in juvenile court.²

Juvenile Court judges have a unique duty at disposition and beyond. This special responsibility requires that a judge be very active in conducting a thorough investigation into the child’s needs, an inquiry that is supposed to focus on myriad aspects of the youth’s life and the family’s circumstances.³

This view is espoused by the National Council of Juvenile and Family Court Judges (NCJFCJ), wherein the oversight role of the Juvenile Court in children’s behavioral health is promulgated as an ethical duty and as a best practice in the management of child welfare cases, stated in the NCJFCJ manual entitled *Improving Court Practice in Child Abuse and Neglect Cases*.

Child welfare cases impose a special obligation on juvenile court judges to oversee case progress. Case

oversight includes two requisites: state fulfillment of its responsibilities and parental cooperation with the state.

The oversight obligation of judges in child welfare cases is necessary because special circumstances apply: (1) court involvement in child welfare cases occurs simultaneously with agency efforts to assist the family; (2) the law assigns to the juvenile court a series of inter-related and complex decisions that shape the course of state intervention and determine the future of the child and family; and (3) **because of the multitude of persons dealing with the child and family, there is increased potential for delay and error.**

The juvenile court judge is required to remain actively involved over a period of time in child welfare litigation. The judge does not simply make a one-time decision concerning the care, custody, and placement of a child, but rather makes a series of decisions over time.

The decisions that must be made in child welfare litigation are not merely litigation management decisions, but decisions governing the lives and future of the parties. For example, over time a court may order, in a single child welfare case: the child’s emergency placement into shelter care; the child’s placement into extended foster care; the parents’ participation in treatment; the parents’ submission to evaluation or testing; the parents’ participation in a revised treatment plan; a schedule for parent-child and sibling visitation; termination of parental rights; and the child’s adoption.

Because its decisions in child welfare cases are interlocking and sequential, the court performs a more managerial and directive function than in other litigations. Court decisions shape agency actions by identifying dangers and defining the agency’s approach to each case, and related delivery of services to the child and family. Regular court review of each case refines and redefines agency involvement. Because of the nature of this decision-making in child welfare cases, the judge has a distinct impact on the course of agency work with each family. (emphasis added).⁴

Continued on page 9

Judicial Authority on Case Plans *cont'd from pg. 8*

This view of the role of the judge has been formalized in the Nebraska Juvenile Code. Nebraska Revised Statutes, Sec., 43-285 (1) states: When the court awards a juvenile to the care of the Department of Health and Human Services ... the juvenile shall, unless otherwise ordered, become a ward and be subject to the guardianship of the department ... [The] department shall have authority, BY AND WITH THE ASSENT OF THE COURT, to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it.

In *In re Interest of Veronica H.*,⁵ the Nebraska Supreme Court ruled, quoting Subsection (2) of Neb. Rev. Stats, Sec. 43-285, that “the juvenile court may order DHHS to prepare and file with the court a proposed plan for the care and placement of a child ... [and that] the court has the authority to disapprove or modify the plan, order that an alternative plan be developed, or implement another plan that is in the juvenile’s best interests.” In *Veronica H.*, the juvenile court’s order to remove the case manager was deemed consistent with the powers granted to it by statute.

As stated in an article presented through the Eyes of the Child Initiative: “Children have rights not only to safety but also to stability, and the juvenile court has the ultimate duty and authority to enforce those rights. The juvenile court’s enforcement authority includes the power to order the executive branch – when it is a child’s custodian or guardian – to take steps necessary to implement those rights. Those steps include (but surely are not limited to) replacing a case manager, ordering the replacement of a therapist and maintaining jurisdiction over the objection of NDHHS.”⁶

The bottom line, of course is safety and stability for children. The recommendations of NDHHS are given great weight under the law. However, **evidence must be presented to the court to support those recommendations.** The plan presented by the Department is “presumptively” in the best interest of the child(ren), not “conclusively” so. “... [S]hould the court determine the DHHS plan does not ensure safety or stability, it has the authority and the duty [under Nebraska law] to fashion a rehabilitation plan that will provide or lead to that safety and stability.”⁷

Parens patriae or neutral fact finder – the responsibility of the judge in juvenile court is to be both.

Nebraska statutes and case law make clear that while this responsibility includes providing a judicial procedure that assures the parties a fair hearing and their constitutional and other legal rights are recognized and enforced, it also includes responsibility for ensuring and protecting the rights of all juveniles to care and protection and a **safe and stable living environment** . . .⁸ The latter requires a more active involvement from the bench than “rubber stamping” the recommendations of NDHHS and/or adopting recommendations simply because “all of the parties are in agreement.” This is what distinguishes the Juvenile Bench from any other.

References:

- 1) “*Parens Patriae*” – concerned primarily with the best interest of the child.
- 2) A *Parens Patriae* Figure or Impartial Fact Finder: Policy Questions and Conflicts for the Juvenile Court Judge; Criminal Justice Policy Review, Volume 12, Number 4, December 2001.
- 3) *Id.*,
- 4) National Council of Juvenile & Family Court Judges, *Improving Court Practice in Child Abuse and Neglect Cases*, Fall 2000.
- 5) *In re Interest of Veronica H.*, 227 Neb. 370, 721 N.W.2d 651 (2006)
- 6) *There’s the Rub: Court-Agency Friction in Nebraska, Through the Eyes of the Child*, Spotlight Issue, March 19, 2008.
- 7) *Id.*,
- 8) Neb. Rev. Stats., Sec. 43-246.

Case plan statistics for 4,754 children reviewed in 2009:

- ▶ 30.9% of cases had no case plan or a case plan that was incomplete or outdated.
- ▶ 33.7% of cases showed clearly no progress towards permanency.
- ▶ Additionally, the Board found that in 18.3% of the case plans it was unclear as to what, if any, progress was made.
- ▶ After extensive review the Foster Care Review Board did not agree with 29.1% of the case plans.
- ▶ 14.1% of the plans did not define services for the child in out-of-home care.

A review of judicial authority over placements for children and youth in order to protect the child's best interests and safety.



by Judge Linda S. Porter,
of Lancaster County
Separate Juvenile Court

When there is a filing in Juvenile Court in the interest of a child, and the court determines that it would be contrary to the child's welfare to remain in the parent's care or home, the court has various options for the placement of that child authorized under the Juvenile Code. Before there is an adjudication in the interest of the child, the juvenile court can place the child temporarily with the person "having charge of the juvenile" or some other suitable person, place the child in a "suitable place provided by the city or county authorities, place the child in any proper and accredited charitable institution or a state institution other than an penal institution when a proper facility is available, or place the child in the temporary custody of the Department of Health and Human Services (Nebraska Revised Statutes Section 43-254). After there is an adjudication of a child under 43-247(3), (which is the primary provision of the Juvenile Code under which a child is placed outside the parental home due to abuse, neglect or dependency), the court can permit the child to remain in his or her own home, can enter an order committing the juvenile to the care of a suitable institution, can place the child in inpatient or outpatient treatment at a mental health facility or mental health program, can place the child in the care of some reputable citizen of good moral character, can place the child in the care of an accredited association willing to receive the juvenile embracing in its objectives the purpose of caring for or obtaining homes for such juveniles, or the court can place the child in the care of the Nebraska Department of Health and Human Services (Nebraska Revised Statutes Section 43-284).

As the above statutory provisions make clear, both before and after adjudication the juvenile court

has various options for placement of a child under its jurisdiction including placement of the child in the custody of the Department of Health and Human Services. In order to provide the child and its family with access to services as well as a safety net for the child, and also due to court's limited ability on its own to investigate alternatives to placement with the department, the Department of Health and Human Services is undoubtedly utilized most frequently for placement of children who cannot safely remain in a parent's care or home. The court can, however, consistent with its authority, directly place a child with a relative or other suitable person or family without making the child a ward of the state. When the child is placed in the Department's custody, however, the juvenile court retains additional ongoing authority over that child's placement with the Department throughout the pendency of the case as set forth below.

Under Nebraska Revised Statutes Section 43-285(1), when the court awards a juvenile to the care of the Department, he or she becomes a ward of the state, subject to the guardianship of the Department. The statute goes on to provide that the Department has the authority "by and with the assent of the court, to determine the care, placement, medical services, psychiatric services, training and expenditures on behalf of each juvenile committed to it." Thus it is clear that any placement of the child, as well as all other care, services and expenditures made on behalf of the child are subject to the court's approval. This authority has been broadly construed by the Supreme Court of Nebraska when looking at the issue of the court's authority regarding placement and related decisions involving children under its jurisdiction. In the recent case of *In re Gabriela H.*, 280 Neb. 284, 785 N.W.2d 843, decided July 23, 2010, the Supreme Court upheld the juvenile court's authority to order the Department of Health

Continued on page 11

and Human Services to accept a relinquishment of parental rights for a juvenile who had been adjudicated. Specifically, the Supreme Court stated: “[J]uvenile courts are accorded broad discretion in their determination of the placement of children adjudicated abused or neglected and to serve the best interest of the children involved.. Although the juvenile code gives DHHS a certain degree of discretion with respect to children placed in its custody, that discretion is subject to the superior right of the juvenile court to determine what is in the child’s best interests.” The Supreme Court has also upheld the juvenile court’s authority to order the Department of Health and Human Services to remove a case manager and assign a more experienced caseworker to the family under the court’s statutory authority to assent to the child’s care and placement under 43-285. In *re Interest of Veronica H.*, 272 Neb. 370, 721 N.W.2d 651 (2006).

The Juvenile Code also specifically provides that if the department seeks to change the placement of a child from one previously approved by the court, the Department is required to file a notice of placement change with the court seven days prior to the change with notice to all parties. The juvenile court may on its own motion or upon the objection of any party, order a hearing to review such change in placement and order that the placement change be stayed until completion of the hearing. The juvenile court can approve an immediate change in placement on an emergency or *ex parte* basis upon good cause shown. The department may make an immediate change in placement without court approval only if the juvenile is in a harmful or dangerous situation or when the foster parents request that the juvenile be removed from their home. Approval of the court must then be sought within twenty-four hours or as soon thereafter as possible. These provisions establish that the Juvenile court continues to have ongoing authority over a child’s placement and can approve or reject a placement change sought by the department based upon the evidence presented and the best interests of the child.

When a juvenile is committed to the custody of the Office of Juvenile Services, the court’s authority with regard to placement of the juvenile is more lim-

ited. Under Nebraska Revised Statutes Section 43-408, the “committing court” is only able to order the initial level of treatment for the juvenile and not the specific placement. The juvenile court retains jurisdiction over the juvenile, and must conduct review hearings for every juvenile placed out of the home at least every six months,(unless they are placed at the Youth Rehabilitation and Treatment Center in Kearney or Geneva,) and must make a determination as to whether an out of home placement continues to be in the best interests of the juvenile, with due consideration being given to public safety. Returning the juvenile home or to a lower level of treatment does not require court approval unless there is an objection by a party and an intermediate administrative review by the department is appealed to the court for further hearing. For the juvenile to be placed in a more restrictive level of treatment, court approval is required and a hearing is held to determine whether such higher or more restrictive level of treatment is in the juvenile’s best interests, with the court making that decision.



Of the 4,448 children in out-of-home care on December 31, 2009:

- ▶ 2,241 (50.3%) had been in 1-3 foster homes/placements.
- ▶ 706 (15.8%) had been in 4-5 foster homes/placements.
- ▶ 844 (19.0%) had been in 6-10 foster homes/placements.
- ▶ 657 (14.8%) had been in 11 or more foster homes/placements.
- ▶ 1,040 (21.9%) of the case files had no documentation or homestudy to determine safe placement for the child.

Efforts continue by the legal system to enhance the quality and quantity of time foster care children spend with their parents before reunification.



Judge
Linda S. Caster Senff

by Judge
Linda S. Caster Senff
of the 5th Judicial
District County Court
(Boone, Butler, Colfax,
Hamilton, Merrick, Nance,
Platte, Polk, Saunders, Seward,
and York Counties)

The Nebraska Supreme Court's Through the Eyes of the Child Initiative continues to focus on enhancing parenting time. At the 2009 Nebraska Children's Summit held September 9-11, 2009

in Grand Island, Nebraska, participants voted on priorities for the Through the Eyes of the Child Initiative for the upcoming years. One of the top three priorities selected was to **improve the use of parenting time to improve permanency**. That selection is recognition of the important role that parenting time plays in the successful reunification of families. Parenting time guidelines approved by the Nebraska Supreme Court Commission on Children in the Courts are posted on the Through the Eyes of the Child Initiative website. The guidelines are an effort to ensure that children receive meaningful and safe parenting time. Experts agree that developing a parenting time plan as soon as possible after removal of a child from their home is important. Courts are encouraged to use prehearing conferences which are informal, facilitated meetings held prior to the first court appearance. The prehearing conference protocol drafted and approved by the Initiative's Protocol Development Committee includes clarifying visitation options as one of the goals of the prehearing conference.

Training regarding the importance of parenting time has continued across the state. One expert in the field is Rose Marie Wentz, who has worked in the field of child welfare for 34 years and is on the board of the National Staff Development and Training Association

and is a consultant for the National Resource Center for Permanency and Family Connections. She provides training and consulting on case planning, collaboration, concurrent planning, engaging clients, visit planning, permanency planning, diversity and supervision. Ms. Wentz brought her knowledge and expertise to Regional Conferences held throughout Nebraska in 2010 where she presented training on Using Parenting Time to Improve Permanency Outcomes. As explained by Ms. Wentz, the primary purpose of parenting time is to meet the child's developmental and attachment needs and the secondary purpose of the visits is to assess the parent's ability to safely parent their child and to determine the final permanency plan. Each participant of the training was given a laminated checklist for assessing parenting time plans. Such training tools are an important step in assisting Courts across the state to ensure that appropriate parenting time plans are approved and implemented. The 2010 lecture series of the Initiative also included a presentation by Ms. Wentz, entitled Enhancing Sibling Connections, which was presented in Grand Island and Omaha and highlighted the importance of including siblings in any visitation plan.

These Nebraska training opportunities continue to highlight the importance of developing a meaningful parenting time plan for each juvenile court case and represent a step forward in the ever evolving process of developing best practices to ensure that the best interests of our children are protected.

"It will take a combination of many remedies to create a cure to the current problems in the child protection system."

— John P. Icenogle,
Judge of the 9th District Court

The Board supports accountability for Guardians ad Litem by using Nebraska Supreme Court Guidelines.



Guardians ad Litem Representation

by Christine P. Costantakos
J.D. Member of Nebraska Bar

Chief Justice Heavican of the Nebraska Supreme Court met with staff of the Foster Care Review Board as recently as September 29, 2010. Among the matters discussed was a request for members of local review boards to help identify instances of Guardian ad Litem non-compliance with the Supreme Court's guidelines for Guardian ad Litem representation.

These guidelines, summarized below, are designed to improve the quality of representation and advocacy that foster children receive from their Guardians ad Litem.

Best Practices for Guardians ad Litem

In July 2007, the Nebraska Supreme Court adopted guidelines to define what are "best practices" for Guardians ad Litem to

ensure effective representation of children's legal and best interests in dependency and abuse/neglect proceedings in juvenile court. The Board will identify cases where Guardians ad Litem need to improve their compliance with those Guidelines, and will include this in the Board's recommendations in the top concerns section. The Chief Justice has asked Judges to hold Guardians ad Litem accountable when they do not follow the Supreme Court's guidelines.

Guardian ad Litem Defined:

The Guardian ad Litem is an attorney appointed by the court for the child who represents the juvenile's legal interests and advocates for the juvenile's best interests. A Guardian ad Litem is under a legal duty to

conduct an *independent determination* as to the juvenile's best interests and must take the necessary actions to advocate and protect the best interests of the juvenile. While the guardian ad litem can, and certainly should consider information and input regarding the case made available by the DHHS case manager, or by other service providers or advocates, the guardian ad litem's job is not to act as a "rubber stamp" for any one of these, but to make an independent assessment of what is in the juvenile's best interests in terms of placement and any other matter affecting the health, safety, and welfare of the juvenile.

Guardian ad Litem Best Practices

The Supreme Court Guidelines recommend that as a best practice, Guardians ad Litem should:

Consult with the juvenile as required by statute ("consult" means meeting in person with the juvenile, unless prohibited or made impracticable by exceptional circumstances) within the first two weeks of appointment, and least once every six months thereafter.

In addition, the Guidelines suggest that the Guardian ad Litem also consult with the juvenile as follows:

- When the juvenile requests that the Guardian ad Litem meet with him or her; and
- When the Guardian ad Litem has received notification of any

emergency, or other significant event or change in circumstances affecting the juvenile, including a change in the juvenile's placement;

- Prior to any hearing at which substantive issues affecting the juvenile's legal or best interests are anticipated to be addressed by the Court.

After researching the DHHS file, providing questionnaires, contacting foster parents, and, in many cases, calling/emailing the Guardian ad Litem the following are the contact statistics for 4,754 children reviewed in 2009:

- ▶ Contact had occurred for 2,511 (52.8%) of the children.
- ▶ 41.3% of children had no documentation showing a visit from a guardian ad litem.

Guardian ad Litem continued on page 15

Permanency hearing, and approval of the permanency plan, are crucial to a child returning to a healthy, safe and permanent environment.



**Judge
Ross A. Stoffer**

**by Judge Ross A. Stoffer,
Judge of the
7th District Court,
Madison County**

All children have the right to a healthy and safe childhood in a nurturing, permanent family, or in the closest possible substitute to a family setting.

This is one of the goals set for juvenile courts by the National Council Of Juvenile

And Family Court Judges in the GUIDELINES, Improving Court Practice in Child Abuse and Neglect Cases. These guidelines have been the basis of many of the recent changes implemented in Nebraska with the help of the Through the Eyes of the Child initiative. Whenever the home in which the child resides is no longer healthy or safe, it may become necessary for the child to be removed from that home and the conditions leading to the removal corrected or another placement for the child sought. The permanency hearing and the permanency plan approved at that hearing are crucial to a child returning to a healthy, safe and permanent environment.

Research on children in out of home placements has shown a relationship between frequent changes in placement and negative child outcomes, including poor academic performance, truancy, and social or emotional adjustment difficulties such as aggression, withdrawal, and poor social interaction with peers and teachers. The risk of these negative outcomes to a child increases when a child's placement is changed regardless of the child's pre-removal history of maltreatment or behavioral problems. Therefore, returning the child to a permanent safe and healthy environment needs to be accomplished as quickly as possible, with as few moves as possible, while maintaining the

rights of the persons involved.

When a child is removed from the home and the parents have either admitted the allegations of an unhealthy or unsafe environment for the child, or the allegations have been found to be true, a plan is developed and ordered by the Court outlining what the parents must do in order for the child to be returned to their home. This plan is reviewed at least every six months. Operating under this plan gives the parents an opportunity to demonstrate their ability and willingness to do what is necessary to correct the problems that led to the child being removed from their home.

When a child has been out of the parental home for approximately 12 months, a permanency hearing takes place. The purpose of the permanency hearing is to examine the progress that has been made during the preceding 12 months and decide whether sufficient improvement has occurred or will soon occur to permit the child to return home in the near future, and, if not, to determine an alternative permanent placement. At the permanency hearing, the judge sets the plan and the date that the plan will be implemented. This date should be a firm date to insure that the child will not continue in foster care any longer than necessary. Examples of permanency plans which might be ordered are 1) return to the parent; 2) adoption by a relative, foster parent or other non-relative with the state filing a petition to terminate parental rights, if necessary; 3) proceeding with legal guardianship of the child; 4) proceeding with permanent placement, such as long term foster care, with a relative, foster parent or other non-relative; or 5) providing another specified permanent living arrangement.

Looking at the examples of possible permanent placements, one can see that the permanency plan is not something that is developed just in the weeks prior to the hearing. Permanency considerations should begin the moment the child is removed from

Continued on page 15

Permanency Hearings continued from page 14

the home. Relatives should be sought out immediately and asked about their willingness to care for the child on a temporary basis and to take on that obligation permanently if the parents are unable to correct the problems leading to the child's removal. If relatives are unavailable, unable or not suitable for placement then the foster placement should be chosen considering the likelihood of return of the child to the family home and whether the foster parents would consider being a permanent placement for the child in the event reunification is not possible. Consideration of these issues as closely as possible to the time of removal reduces the risk of negative outcomes to the child caused by multiple placement changes.

Looking at the examples of possible permanent placements, one can also see that evidence must be presented to the Court at the permanency hearing so that the Court has a clear picture of the parents' ability and willingness to correct the problems leading to removal, the extent of the progress made, whether the remaining actions necessary to correct the problems can be accomplished in a reasonable time, and if not, the action that will be taken to make sure that the child reaches a permanent placement by the date set in the permanency plan. If it is determined at the permanency hearing that the parents will be able to

accomplish the necessary corrections within a reasonable time, the permanency plan sets the time that those corrections are to be accomplished and the child returned home. If it is determined that they will not be able to accomplish those corrections within a reasonable time, the permanency plan changes the direction of the case from attempting to reunify the child with the parents to another goal that will give the child permanency and end the child's temporary placement. Once this permanency plan is adopted by the Court, the Department of Health and Human Services is required to implement it. Further review hearings are then held by the Court to make sure that the permanency plan is followed and the child placed in a permanent setting.

The implementation of the permanency plan by the Department of Health and Human Services should put the child on the path to a healthy, safe and permanent environment. A crucial part of getting on that path is the evaluation of progress, setting of clear goals and establishing a definite time for those goals to be completed that is provided in the permanency hearing and permanency plan. Without the permanency hearing, the goal of placing the child in a permanent setting as soon as possible with as few moves as possible is difficult to attain.

Guardian ad Litem continued from page 13

Make every effort to see the juvenile in his or her placement at least once, with respect to each such placement.

Submit a written report to the court at every dispositional hearing and review hearing. This report should include, but is not limited to, the following information:

- Dates of, and description of, the type of contact and communication with the juvenile;
- Listing of documents reviewed;
- The Guardian ad Litem's concerns regarding any specific matters or problems which, in the opinion of the Guardian ad Litem, need special, further, or other attention in order to protect or facilitate the juvenile's legal and best interests; and
- The Guardian ad Litem's independent assessment of, and recommendations regarding the juvenile's placement, in light of his or her needs and legal

and best interests.

The guardian ad litem is required to make inquiry:

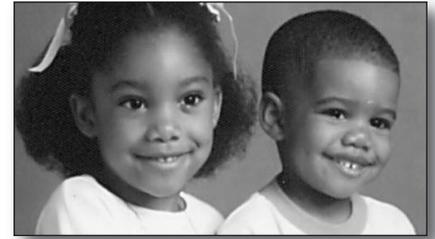
- of the juvenile's caseworker;
- of the child's foster parent, or legal custodian;
- of any other person directly involved with the juvenile who may have knowledge about the case or the development of the juvenile.

The guardian ad litem should also make inquiry of any other persons who have knowledge or information relevant to the juvenile's best interest.

The guardian ad litem has a duty to read and comprehend the court reports prepared by the Nebraska Department of Health and Human Services, the Nebraska Foster Care Review Board, the CASA volunteer, and from all other persons or providers assigned to the case who prepare and present such reports to the court.

The guardian ad litem is required to attend all hearings unless expressly excused by the court.

The Board recommends using aggravated circumstance hearings to accelerate permanent placements.



Changes of Law in Aggravated Circumstance Hearings

by Christine P. Costantakos
J.D. Member of Nebraska Bar

In cases where the parent has subjected a juvenile to “aggravated circumstances,” prosecutors can request the court to make a finding that will excuse the State from its duty to make reasonable efforts to preserve and unify the family. The phrase “aggravated circumstances” has been judicially interpreted to mean that the nature of the abuse or neglect is so severe or repetitive that reunification with the child’s parents jeopardizes and compromises the child’s safety and well-being or would expose the child to an unreasonable risk of being re-abused. [See *In re Interest of Jac’Quez N.*, 266 Neb. 782, 669 N.W.2d 429 (2003)]

It is estimated that about 20-30 percent of the cases involve the types of parental behaviors that could provide a basis for the court to find an exception to the State’s duty to exercise reasonable efforts. Some examples include cases involving abandonment, torture, sexual abuse, or chronic abuse. In the recent case of *In re Interest of Hope L., et. al.*, 278 Neb. 869, 775 N.W.2d 384 (2009), the Nebraska Supreme found that the parents’ repeated subjection of their children to unwarranted medical treatment and procedures—including unnecessary surgery—clearly constituted aggravated circumstances sufficient to terminate their parental rights under §43-292(9). While that case involved the termination of parental rights, there is no doubt that a parent’s subjection of a child to repetitive or extreme treatment or procedures which are unnecessary would qualify as “aggravated circumstances” sufficient to excuse the State from its duty to make reasonable efforts to preserve and reunify the family under §43-283.01.

There are other grounds in addition to “aggravated circumstances” upon which the court may find that an exception exists with respect to the State’s duty to make reasonable efforts: 1) parental involvement in

the murder or voluntary manslaughter of another child of the parent, 2) situations where the parental rights to a sibling of the juvenile have been terminated involuntarily, 3) the commission of a felony assault which results in the serious bodily injury to either the juvenile or to another minor child of the parent, and 4) if the parent has been convicted of felony sexual assault of the other parent of the juvenile, although the statutory reference supporting that particular ground needs to be amended. [See Neb. Rev. Stat. §43-283.01(4)(b) and (4)(c)]

If the court has ruled that efforts to reunify are no longer necessary, then children can be transitioned more quickly into permanency, whether in the form of adoption or guardianship. [See Neb. Rev. Stat. §43-283.01(5)]

Prosecutors and guardians ad litem should review their cases in order to identify the existence of factual grounds upon which the court can make a determination that reasonable efforts to preserve and reunify the family are *not* required. Where such grounds exist, prosecutors and guardians ad litem can request the court to make such a finding. For example, such a determination can be requested from the court in the initial petition filed by the State, or in a motion subsequently filed by either the State, or the juvenile’s guardian ad litem.

The element of “aggravated circumstances” also constitutes a separate statutory ground upon which termination of parental rights can be sought immediately. Neb. Rev. Stat. §43-292(9) authorizes the court to terminate parental rights when the parent of the juvenile has subjected the juvenile to “aggravated circumstances,” including, but not limited to, abandonment, torture, sexual abuse, or chronic abuse. Note that the “aggravated circumstances” under Neb. Rev. Stat. §43-283.01 and the “aggravated circumstances” under Neb. Rev. Stat. §43-292(9) are in substance the same: subjection of either the juvenile *or another child*

Continued on page 17

Aggravated Circumstances continued from page 16

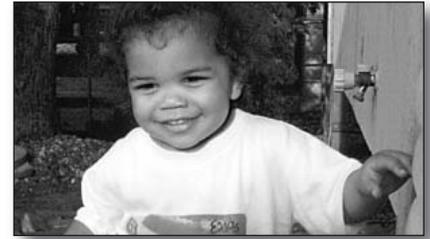
of the parent to “aggravated circumstances” will suffice to relieve the State from its duty to make reasonable efforts under Neb. Rev. Stat. §43-283.01 and will also provide a basis for termination of parental rights under Sec. 43-292(9). Thus, a parent's severely abusive or neglectful conduct directed toward another child – ***not just his or her own child*** – is now part of the calculation regarding reasonable efforts under §43-283.01 and the termination of parental rights based upon aggravated circumstances which to terminate parental rights under §43-292(9).

The following allegations could be used to support a judicial finding that reasonable efforts are not required in a given case:

“The father has been convicted of felony child abuse due to the abuse he inflicted upon his daughter. A certified copy of the judgment of his conviction is marked as Exhibit “A” and attached hereto.

- (a) As the result of said child abuse by her father, the minor child sustained numerous bruises and fractures.
- (b) The mother delayed unreasonably in seeking proper medical care and treatment for her daughter, as the result of which the daughter's injuries were exacerbated, thereby posing a significant threat to the child's health, safety and welfare.
- (c) Reasonable efforts to preserve and reunify the family are not required in this case due to the fact that both parents have subjected the minor child to aggravated circumstances within the meaning of Neb. Rev. Stat. §43-283.01(4)(a); and that the father committed a felony assault which resulted in serious bodily injury to the minor child, under Neb. Rev. Stat. §43-283.01(4)(b).

Wherefore, the undersigned requests this court to make a finding that reasonable efforts to preserve and reunify the family are not required, and to hold a permanency hearing within thirty days, as required by Neb. Rev. Stat. §43-283.01(5).”



For the 4, 754 children reviewed in 2009, where permanency plans identified reunification as the objective:

- ▶ 38.3% of the children in care on Dec. 31, 2009, had at least one prior removal.
- ▶ 8.1% of the children reviewed in 2009 entered foster care due to sexual abuse.
- ▶ 12.4% of the children reviewed in 2009 entered foster care due to physical abuse.
- ▶ 20.0% of the mothers seeking reunification had not utilized the services offered.
- ▶ Services for the mother had not been defined in 9.4% of the plans.
- ▶ 13.4% of the cases did not offer services to the father because the father had not been identified.
- ▶ Services for the father in 24.4% of the plans had not been defined.

“The largest problem we have in terms of vulnerability of children is low-income, highly stressed environments. Environments where the impact of daily stress, particularly if compounded by exposure to violence, or mental illness in the family, particularly maternal depression or substance abuse, that level of stress, that kind of toxic stress in the environment of a young child is actually interfering with the development of the brain.”

Dr. Jack Shonkoff, Founding Director
Center on the Developing Child, Harvard University.

Statistics on children in foster care ...

	Total Number of Children in Care	Children in care for two years or more	Removed from the home more than once	4 or more case workers	Age				Adjudication Status			Children placed in same county as parent	Number of Placements		
					Birth to 5	6 to 8	9 to 12	13 to 18	Abuse/Neglect	Status Offender	Other/Unk.		1 to 3	4 to 6	7 or More
ADAMS	92	28	45	36	16	8	12	56	47	19	26	27	32	18	42
ANTELOPE	6	2	4	2	1	1		4	4		2	1	3	1	2
ARTHUR	1			1				1			1				1
BANNER	0														
BLAINE	0														
BOONE	3						1	2		1	2		3		
BOX BUTTE	4						1	3	1		3		3		1
BOYD	3		3		3				3					3	
BROWN	3				1	1		1	3			3	3		
BUFFALO	79	16	35	23	24	3	7	45	45	9	25	35	39	10	30
BURT	4	3		1	2	1		1	4			3	3		1
BUTLER	24	5	11	4	7	6	3	8	17	4	3	9	13	5	6
CASS	32	8	13	9	6	1	4	21	17	8	7	14	15	8	9
CEDAR	0														
CHASE	5	1	5	3	2			3	3	2			1	1	3
CHERRY	2	1	1	2			1	1	1	1		1			2
CHEYENNE	13	3	6	6	3	1	2	7	7	1	5	5	6	3	4
CLAY	8	1	2	3	2		1	5	4	3	1	1	5		3
COLFAX	11		4	7	3		2	6	4	2	5	4	7	2	2
CUMING	17	6	7	8	2	2	2	11	12	2	3	2	9	2	6
CUSTER	12	3	4	4	2		2	8	6	3	3	3	5	3	4
DAKOTA	19	3	6	5	4	2	2	11	6		13	3	8	4	7
DAWES	1		1					1			1			1	
DAWSON	56	4	29	11	8	3	3	42	15	23	18	11	24	12	20
DEUEL	1	1			1				1			1		1	
DIXON	4	1		1	1			3	2		2		3	1	
DODGE	87	11	34	41	27	5	12	43	58	5	24	25	44	13	30
DOUGLAS	1,829	432	684	695	540	210	247	832	1,295	73	461	1,334	893	428	508
DUNDY	2	2		2				2	1		1	1			2
FILLMORE	11	4	6	4	1	1	3	6	7	1	3	1	3	1	7
FRANKLIN	2		2	1				2	1	1					2
FRONTIER	6		1		2			4	1	4	1	1	5		1
FURNAS	14	1	6	6	3	5	3	3	11	2	1	2	6	6	2
GAGE	29	4	18	9	6		2	21	11	2	16	10	11	5	13
GARDEN	1							1	1				1		
GARFIELD	3	2	2	2	1			2	3				3		
GOSPER	2		2	1				2		1	1				2
GRANT	0														
GREELEY	6	3	4	4		1		5	4	1	1	1		2	4
HALL	197	31	83	77	62	23	29	83	146	14	37	111	101	43	53
HAMILTON	10	2	4	1	2			8	3	5	2	3	3	2	5
HARLAN	4		3				1	3	1	2	1	1	1	1	2
HAYES	0														
HITCHCOCK	2		1	1				2	1	1			1	1	
HOLT	18	2	5	4	2	1	4	11	11	4	3	9	12	2	4
HOOKER	1							1			1		1		
HOWARD	7	2	5	2	1			6	2		5	1	2	3	2
JEFFERSON	10	3	5	3	1		2	7	5		5		4	1	5

... by county, as of December 31, 2009

	Total Number of Children in Care	Children in care for two years or more	Removed from the home more than once	4 or more case workers	Age				Adjudication Status			Children placed in same county as parent	Number of Placements		
					Birth to 5	6 to 8	9 to 12	13 to 18	Abuse/Neglect	Status Offender	Other/Unk.		1 to 3	4 to 6	7 or More
JOHNSON	6	2	3	3	1			5	6				1	2	3
KEARNEY	13	1	1	2	4	1	2	6	11	1	1		11	1	1
KEITH	12	3	3	4			1	11	4	2	6	4	6	3	3
KEYA PAHA	0														
KIMBALL	8	4	2	2	3	2		3	6	1	1	1	6	1	1
KNOX	1	1		1				1	1						1
LANCASTER	879	179	313	299	241	100	96	442	601	50	228	492	481	176	222
LINCOLN	136	26	60	43	48	12	13	63	76	42	18	74	67	33	36
LOGAN	2				2				2			2	2		
LOUP	0														
MADISON	83	12	24	19	27	12	11	33	54	8	21	37	47	19	17
McPHERSON	0														
MERRICK	10		3	1	3			7	3	3	4		6	2	2
MORRILL	4		1	1	1	1		2	2		2		3		1
NANCE	6	2	3	3	1		1	4	4	1	1	1	2	1	3
NEMAHA	8	3	5	5	1	1	1	5	4	1	3		3	1	4
NUCKOLLS	4		4		2		1	1	4					4	
OTOE	38		15	3	15	5	4	14	28	3	7	10	22	11	5
PAWNEE	1		1	1	1				1					1	
PERKINS	2		2	1				2		2				1	1
PHELPS	19	4	7	5	6	1		12	10	1	8	6	9	5	5
PIERCE	4		1		2			2	2	2			3	1	
PLATTE	42	6	18	14	8	5	2	27	27	3	12	10	25	6	11
POLK	4	2	2			1	1	2	4				2	1	1
RED WILLOW	18		5	3	3	1	2	12	6	8	4	5	8	4	6
RICHARDSON	9		3	1	4		1	4	5	2	2	5	5	2	2
ROCK	0														
SALINE	16	4	7	4	1	2		13	5		11	5	7	4	5
SARPY	237	27	94	64	51	19	28	139	156	39	42	88	117	43	77
SAUNDERS	22	1	7	2	10	1	3	8	14	2	6	6	15	4	3
SCOTTS BLUFF	103	30	34	36	36	12	9	46	77	14	12	59	57	15	31
SEWARD	28	4	9	5	6		2	20	13	3	12	6	12	8	8
SHERIDAN	7		4	2				7	2		5		2	1	4
SHERMAN	5	4		4			2	3	4		1	2	5		
SIOUX	0														
STANTON	5	1	2	1	1	1	1	2	3		2		3		2
THAYER	1		1	1				1	1				1		
THOMAS	1							1		1			1		
THURSTON	7	1	1	3	4	1		2	5	1	1	1	4	2	1
VALLEY	5	2	3	4	1		1	3	3	1	1	1	1	2	2
WASHINGTON	14	3	9	7	1		2	11	8	3	3	3	7	1	6
WAYNE	12		4	4	2	2	2	6	7	1	4	2	6	5	1
WEBSTER	1		1	1				1			1				1
WHEELER	0														
YORK	33	9	11	6	11	3	4	15	22		11	13	20	6	7
Unreported/Tribal	1							1					1		
TOTALS:	4,448	916	1,704	1,534	1,233	458	536	2,221	2,945	389	1,114	2,428	2,241	949	1,258

Top Commendations and “Thank You”

The Staff and Volunteers of the Foster Care Review Board would like to acknowledge the 2009 achievements and efforts of the following individuals and agencies:

Chief Justice Mike Heavican is commended for his continued active support of the Through The Eyes of the Child Initiative and Summit, focusing on use pre-hearing conferences to identify relatives and paternity, 12-month permanency hearings, guardian ad litem performance, and reducing continuances. In addition, Chief Justice Heavican has continued the Supreme Court Commission on Children in the Courts, and other improvements for court processes involving juveniles. The efforts he has initiated, along with judges with juvenile jurisdiction, regarding pre-hearing conferences and 12-month permanency hearings have reduced the length of time in foster care for many children.

Juvenile and County Court Judges are commended for their leadership in the Through the Eyes of the Child teams, for their responsiveness to the issues identified by the FCRB, and for their actions to monitor and, when necessary, expedite case progression as a means of helping to achieve permanency for children in a timely manner, and who talk personally with the children and youth and give them encouragement.

It is notable that **FCRB staff recommended half of these judges for special commendations**, including: Judges Graten Beavers, Alan Broadbeck, Glenn Camerer, Linda Caster Senff, Elizabeth Crnkovich, Vernon Daniels, Lawrence Gendler, Roger Heideman, Robert Ide, Douglas Johnson, Gerald Jorgensen, Christopher Kelly, Richard Krepela, Douglas Luebe, Phillip Martin, Curtis Maschman, Patrick McArdle, Patrick McDermott, Michael Offner, Robert O’Neal, Jack Ott, Anne Paine, Linda Porter, Randin Roland, Gerald Rouse, Reggie Ryder, Ross Stoffer, Donna Taylor, Wadie Thomas, Steven Timm, Toni Thorson, Kenneth Vampola, and James Worden.

Through the Eyes of a Child Teams and their facilitators are commended, including: Kelli Hauptman, Darrie Street, and KaCee Zimmerman.

Attorney General Jon Bruning is commended for his leadership and focus on children’s issues, and his continued support of the special unit in his office that prosecutes crimes against children.

Lancaster County Attorney Gary Lacey, on his retirement in 2010 following more than 30 years of service to the citizens, and particularly the children, of Lancaster County. He has maintained a steadfast top priority for children’s issues, and he

has fiercely advocated for children’s safety and permanency in a nurturing environment. Over the years, he has been an active partner with the Foster Care Review Board. His clear, unequivocal voice for children will be missed.

County Attorneys and deputy county attorneys are commended for their many efforts to ensure that Nebraska’s children are safe. In particular we commend the work of Patrick Calkins, Robert Cashoili, Jennifer Chrystal-Clark, Gail Collins, Nicole Goaley, Rebecca Harling, Alicia Henderson, Sandra Markley, Carolyn Rothery, Shellie Sabata, Amy Schuchman, Mandi Schweitzer, Shellie Sabata, and Tim Sopinski.

Guardians ad litem and/or children’s attorneys who do an outstanding job of advocating for their clients are commended. In particular we commend the work of Rebecca Abel-Brown, Claude Berreckman Jr., Lyndsay Bonwell, Lynnette Boyle, Christina Boydston, JNicole Cavanaugh, Mary Pat Coe, Christine Costantakos, Susanne Dempsey, Ann Ebsen, Erick Eisenhart, Julie Effenbeck, Audrey Elliott, Jerry Fogarty, Leta Fornoff, James Gallant, Nancy Garrelts, Robert Goodwin, Roger Harris, Kelly Henry-Turner, Katrine Herrboldt, Pamela Hopkins, Tom Incontro, Tanya Janulewicz, Jennifer Kearney, Melanie Knoepfl, Denise Kracl, Tom Lamb, David Lepant, Shon Lieske, Deb Lyford, Wes Lubberstedt, Tina Marroguin, Rebecca McClung, Angela Minahan, Michelle Mitchell, Dennis Morland, Maxie Morgan, Amber Morris, Bill Morris, Andria Mueller, Candice Novak, Kathryn Olson, Jason Ossian, Jenniffer Panko-Rahe, Forrest Peetz, Mark Proto, Shannon Prosocki, Susan Reff, Kathleen Rockey, Hazel Rodriguez, Melissa Schutt, Dick Seckman, Michaela Skogerboe, Scott Sidwell, Lindsay Snyder, Amanda Speichert, James Stecker, Gail Steen, Jacqueline Tessorf, Mariclare Thomas, Dalton Tietjen, Bobie Touchstone, William Tringe, Jerod Truba, Dorothy Tubach, David Uher, Karin Walton, and Reginald Young. Other attorneys practicing in juvenile court who are commended include Teresa Columbo-Heavey and Eric Rees.

Parental Guardians ad litem or attorneys commended include on Braaten, James Gallant, Adam Tripp.

The full Annual Report will be available at www.fcrb.nebraska.gov.



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